IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1206 of 1997

to

CIVIL REVISION APPLICATION No 1210 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A'BAD MUNICIPAL CORPORATION

Versus

SHANTABEN WD/O BECHARDAS MOHANLAL

Appearance:

MR PRASHANT G DESAI for the Petitioner, in each matter.

MR DV PARIKH for Respondent Nos. 1-2, in each matter.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/05/2004

ORAL JUDGEMENT

By filing these petitions, the petitioner-Corporation has challenged the order passed by the Executing Court in connection with the execution of the Award passed under the Land Acquisition Act. The claimant submitted an execution application, being Darkhast Application No.402 of 1996, and other cognate Darkhast Applications. The grievance of the claimants is that the Corporation deposited the amount at a very late stage. The Executing Court found that even though the Acquiring Body deposited the amount of compensation awarded in Compensation Case No.7 of 1985, it had not deposited the interest amount from 1.1.1990 to 5.4.1991. The executing court found that the amount of interest plus cost of First Appeal and cost of the application before the Court was not deposited by the acquiring body. Therefore, the trial court directed the Corporation to deposit the aforesaid amount by the impugned order. It is not in dispute that the said amount is already deposited by the Corporation before the Executing Court.

On behalf of the Respondents, it is argued that the interest amount is deposited at the rate of 15% per anum, which is required to be paid as per law.

Mr.Desai, who is appearing for the Acquiring Body, is not in a position to point out as to in what manner the order of the executing court is not correct.

Considering the fact that the acquiring body was required to pay interest at the rate of 15% per annum for the intervening period, in my view, the order of the Executing Court is not required to be interfered with.

Considering the aforesaid aspect of the matters, all these revisions are dismissed. Rule is discharged with no order as to costs. The rate of interest which was ordered to be paid by the Executing Court, for the period between 1989 and 1991, is not required to be interfered with.

There is also more or less consensus prevailing between the parties on this aspect.

It is needless to say that it is open for the respondent/s in each of these matters to withdraw whatever amounts which are deposited by the Corporation.

4th May, 2004 (P.B. Majmudar, J.)

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(apj)